

flict between the said monuments of such patented claims and the descriptions of said claims in the patents issued therefor the monuments on the ground shall govern, and erroneous or inconsistent descriptions or calls in the patent descriptions shall give way thereto.

(R.S. §2327; Apr. 28, 1904, ch. 1796, 33 Stat. 545; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

#### CODIFICATION

R.S. §2327 derived from act May 10, 1872, ch. 152, §8, 17 Stat. 94.

#### AMENDMENTS

1925—Act Mar. 3, 1925, affected words now reading “United States supervisor of surveys” in first and second sentences of text. These words formerly read “the surveyor-general.” This act abolished the office of surveyor general, and transferred to and consolidated with the Field Surveying Service, under the jurisdiction of the U.S. Supervisor of Surveys, the administration, equipment, etc., of such office.

#### TRANSFER OF FUNCTIONS

Director of the Bureau of Land Management, substituted for United States Supervisor of Surveys wherever appearing. In the establishment of the Bureau of Land Management by Reorg. Plan No. 3 of 1946, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees, the office of Supervisor of Surveys was abolished and the functions and powers were transferred to the Secretary of the Interior, to be performed by such officers or agencies of the Department as might be designated by the Secretary. Under that authority, the functions and powers formerly exercised by the Supervisor of Surveys were delegated to the Chief Cadastral Engineer, subject to the supervision of the Director of the Bureau of Land Management. In the general reorganization and realignment of functions of the Bureau, the office of the Chief Cadastral Engineer was abolished, and the functions of that office have been delegated to the Director of the Bureau of Land Management. See 43 C.F.R. §9180.0-3(a)(1).

See also note set out under section 1 of this title.

#### CROSS REFERENCES

Michigan, Minnesota and Wisconsin mineral lands, see section 48 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 48, 49, 102, 541b of this title; title 16 section 460mm-1; title 25 section 640d-10; title 43 sections 1712, 1714, 1732.

### § 35. Placer claims; entry and proceedings for patent under provisions applicable to vein or lode claims; conforming entry to legal subdivisions and surveys; limitation of claims; homestead entry of segregated agricultural land

Claims usually called “placers,” including all forms of deposit, excepting veins of quartz, or other rock in place, shall be subject to entry and patent, under like circumstances and conditions, and upon similar proceedings, as are provided for vein or lode claims; but where the lands have been previously surveyed by the United States, the entry in its exterior limits shall conform to the legal subdivisions of the public lands. And where placer claims are upon

surveyed lands, and conform to legal subdivisions, no further survey or plat shall be required, and all placer-mining claims located after the 10th day of May 1872, shall conform as near as practicable with the United States system of public-land surveys, and the rectangular subdivisions of such surveys, and no such location shall include more than twenty acres for each individual claimant; but where placer claims cannot be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands; and where by the segregation of mineral land in any legal subdivision a quantity of agricultural land less than forty acres remains, such fractional portion of agricultural land may be entered by any party qualified by law, for homestead purposes.

(R.S. §§2329, 2331; Mar. 3, 1891, ch. 561, §4, 26 Stat. 1097.)

#### CODIFICATION

R.S. §2329 derived from act July 9, 1870, ch. 235, §12, 16 Stat. 217.

R.S. §2331 derived from act May 10, 1872, ch. 152, §10, 17 Stat. 94.

#### SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

#### CROSS REFERENCES

Alaska, mining laws relating to placer claims extended to, see section 49b of this title.

Building stone lands, see section 161 of this title.

Michigan, Minnesota and Wisconsin mineral lands, see section 48 of this title.

Saline lands, see section 162 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 48, 49, 102, 541b of this title; title 16 section 460mm-1; title 25 section 640d-10; title 43 sections 1712, 1714, 1732.

### § 36. Subdivisions of 10-acre tracts; maximum of placer locations; homestead claims of agricultural lands; sale of improvements

Legal subdivisions of forty acres may be subdivided into ten-acre tracts; and two or more persons, or associations of persons, having contiguous claims of any size, although such claims may be less than ten acres each, may make joint entry thereof; but no location of a placer claim, made after the 9th day of July 1870, shall exceed one hundred and sixty acres for any one person or association of persons, which location shall conform to the United States surveys; and nothing in this section contained shall defeat or impair any bona fide homestead claim upon agricultural lands, or authorize the sale of the improvements of any bona fide settler to any purchaser.

(R.S. §2330; Mar. 3, 1891, ch. 561, §4, 26 Stat. 1097.)

#### CODIFICATION

R.S. §2330 derived from act July 9, 1870, ch. 235, §12, 16 Stat. 217.

#### SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

## CROSS REFERENCES

Michigan, Minnesota and Wisconsin mineral lands, see section 48 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 48, 102 of this title; title 16 section 460mm-1.

**§ 37. Proceedings for patent where boundaries contain vein or lode; application; statement including vein or lode; issuance of patent; acreage payments for vein or lode and placer claim; costs of proceedings; knowledge affecting construction of application and scope of patent**

Where the same person, association, or corporation is in possession of a placer claim, and also a vein or lode included within the boundaries thereof, application shall be made for a patent for the placer claim, with the statement that it includes such vein or lode, and in such case a patent shall issue for the placer claim, subject to the provisions of sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, including such vein or lode, upon the payment of \$5 per acre for such vein or lode claim, and twenty-five feet of surface on each side thereof. The remainder of the placer claim, or any placer claim not embracing any vein or lode claim, shall be paid for at the rate of \$2.50 per acre, together with all costs of proceedings; and where a vein or lode, such as is described in section 23 of this title, is known to exist within the boundaries of a placer claim, an application for a patent for such placer claim which does not include an application for the vein or lode claim shall be construed as a conclusive declaration that the claimant of the placer claim has no right of possession of the vein or lode claim; but where the existence of a vein or lode in a placer claim is not known, a patent for the placer claim shall convey all valuable mineral and other deposits within the boundaries thereof.

(R.S. § 2333.)

## REFERENCES IN TEXT

Sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, referred to in text, were in the original "this chapter", meaning chapter 6 of title 32 of the Revised Statutes, consisting of R.S. §§ 2318 to 2352.

## CODIFICATION

R.S. § 2333 derived from act May 10, 1872, ch. 152, § 11, 17 Stat. 94.

## CROSS REFERENCES

Annual assessment labor upon oil lands located as placer mining claims, see section 102 of this title.

Michigan, Minnesota and Wisconsin mineral lands, see section 48 of this title.

Petroleum, mineral oil or gas lands, patents, see section 103 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 38, 39, 40, 42, 46, 47, 48, 49, 102, 541b of this title; title 16 section 460mm-1; title 25 section 640d-10; title 43 sections 1712, 1714, 1732.

**§ 38. Evidence of possession and work to establish right to patent**

Where such person or association, they and their grantors, have held and worked their claims for a period equal to the time prescribed by the statute of limitations for mining claims of the State or Territory where the same may be situated, evidence of such possession and working of the claims for such period shall be sufficient to establish a right to a patent thereto under sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, in the absence of any adverse claim; but nothing in such sections shall be deemed to impair any lien which may have attached in any way whatever to any mining claim or property thereto attached prior to the issuance of a patent.

(R.S. § 2332.)

## REFERENCES IN TEXT

Sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, referred to in text, were in the original "this chapter", meaning chapter 6 of title 32 of the Revised Statutes, consisting of R.S. §§ 2318 to 2352.

## CODIFICATION

R.S. § 2332 derived from act July 9, 1870, ch. 235, § 13, 16 Stat. 217.

## SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 39, 40, 42, 46, 47, 48, 102 of this title; title 16 section 460mm-1.

**§ 39. Surveyors of mining claims**

The Director of the Bureau of Land Management may appoint in each land district containing mineral lands as many competent surveyors as shall apply for appointment to survey mining claims. The expenses of the survey of vein or lode claims, and the survey and subdivision of placer claims into smaller quantities than one hundred and sixty acres, together with the cost of publication of notices, shall be paid by the applicants, and they shall be at liberty to obtain the same at the most reasonable rates, and they shall also be at liberty to employ any United States deputy surveyor to make the survey. The Director of the Bureau of Land Management shall also have power to establish the maximum charges for surveys and publication of notices under sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43; and, in case of excessive charges for publication, he may designate any newspaper published in a land district where mines are situated for the publication of mining notices in such district, and fix the rates to be charged by such paper; and, to the end that the Director may be fully informed on the subject, each applicant shall file with the register a sworn statement of all charges and fees paid by such applicant for publication and surveys, together with all fees and money paid the register of the land